

action and not handled separately. The complete action, over a meaningful time frame, must be the subject of a future consultation, in the absence of the MSCP. Implementation of the MSCP is very important to the present consultation.

Because this BO has found jeopardy and destruction or adverse modification of critical habitat, Reclamation is required to notify the Service of its final decision on the implementation of the RPA.

INCIDENTAL TAKE STATEMENT

The Service has developed the following incidental take statement based on the premise that the RPA herein will be implemented. Sections 4(d) and 9 of ESA, as amended, prohibit taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without a special exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns, which include, but are not limited to, breeding, feeding or sheltering. Incidental take is any take of listed animal species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or the applicant. Under the terms of ESA sections 7(b)(4) and 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such taking is in compliance with the terms and conditions of this incidental take statement.

For the bonytail chub, razorback sucker, southwestern willow flycatcher and Yuma clapper rail; and in the event the flat-tailed horned lizard is subsequently listed as threatened or endangered, the measures described below are non-discretionary, and must be implemented by the agency so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, in order for the exemption in section 7(o)(2) to apply. Reclamation has a continuing duty to regulate the activity covered by this incidental take statement. If Reclamation (1) fails to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

AMOUNT OR EXTENT OF TAKE

Listed species:

Bonytail Chub and Razorback Sucker

The Service anticipates that incidental take of bonytail chub and razorback sucker will be difficult to detect. There are two classes of take occurring as a result of the proposed action: (1) take related to maintaining conditions that preclude successful recruitment to bonytail chub and razorback sucker populations; and, (2) take that directly impacts individual fish through mortality.